

D. Remarks:

This Amendment is in reply to the Examiner's First Official Action dated October 15, 2004.

Applicant has initially carefully reviewed the specification and drawings of the application, and has made certain revisions to the specification to correct language, punctuation, and editing errors noted, as well as to amend imprecision's in the description. No new matter has been added. The corrections and revisions made are believed to place the application in better condition for issue into a patent.

Objections to the Drawings.

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) because the reference numerals "65" and "48" in the specification are not shown in the drawings. Applicant is therefore submitting a proposed new drawing sheet labeled "Replacement Sheet" for FIG. 16 of the application with such reference numerals now clearly indicated thereon and highlighted in yellow for the convenience of the Examiner.

Claim rejections under 35 USC § 112, 2nd Paragraph

The Examiner has rejected claims 1-21 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. However, the Examiner has also indicated that each of such claims would be allowable if rewritten to overcome such rejection.

All of the claims have been carefully reviewed and are now believed in condition for allowance. Applicant believes that all of the indefinite language pointed out by the Examiner has been amended or removed from the claims. It is not believed that any of such amendments is substantive in nature, and does not invoke any estoppel provisions with respect to interpretation of the scope of the claims. The specification has also

Amendment in Response to Official Action
Serial No.: 10/613,466
Group Art Unit 3671

been carefully reviewed and amended, and hopefully is also now in satisfactory condition for allowance. With these and the amendment of the claims, it is believed the application is now in condition for allowance and an action to such effect is requested.

Supplemental Information Disclosure Statement.

Attached hereto is also, in accordance with 37 C.F.R. § 1.56, a copy of the reference listed below and on the attached form PTO-1449 (or actually Form PTO/SB/08A which is a substitute for from PTO-1449, which is being brought to the attention of the Examiner for consideration in connection with the examination of the present application for patent. Since this information is being submitted subsequent to the later of three months after the filing date of the present application or the mailing of the first Office Action on the merits, but before the mailing of a final action or the notice of allowance, the undersigned hereby certifies that to the knowledge of the undersigned, such further reference was incidentally noted within the last three months by Applicant's representatives, and was not known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this statement.

Such reference, comprising U.S. Patent 4,302,894 issued December 1, 1981 to S.F. Emma entitled "Manual Shovelling and Dumping Devices" is being cited not because it is particularly pertinent, but because it, at first impression and to one familiar with Applicant's invention, appears very similar. However, upon close study it becomes evident that there is no foot operated lever and what appears to be a foot operated lever activating the shovel blade is actually an adjustable locking bar for deploying the shovel blade at adjustable angles with respect to the handle during use which functions to inactivate the folding feature of the Emma device during use. The operation and mechanical operation of the Emma reference is therefore quite different.

Amendment in Response to Official Action
Serial No.: 10/613,466
Group Art Unit 3671

Applicant does not believe that any fees are dues at this time. While the present Amendment was not mailed until Tuesday, January 18, 2005, the three-month deadline for responding to the Office Action fell on Saturday, January 15, 2005, and Monday, January 17, 2005 is a government holiday, so the Amendment is being timely filed on the next regular business day. However, if any fees are in fact due, please charge such fees or *deposit* any excess in Deposit Account No. 15-0385.

Respectively submitted,



Clinton H. Wilkinson
Attorney for Applicant
Registration No. 43,267

Date: January 18, 2005

Law Offices of Charles A. Wilkinson
68 East Broad Street
P.O. Box 1426
Bethlehem, PA 18016-1426
Phone: 610/867-9700
Fax : 610/868-886